IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 21701 of 2007(H)

OS.301/2004 of MUNSIFF COURT, PERUMBAVOOR

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PETITIONERS:

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1. RAJESH.V.G.,S/O.GOVINDAN, AGED 45 YEARS, VAZHAYILVEETIL, PERUMBAVURKARA, PEPRUMBAVUR VILLAGE.
2. RENJITH, S/O.GOVINDAN, REP. BY POWER OF ATTORNEY V.G.SANTHOSH, S/O.GOVINDAN, AGED 42 YEARS, VAZHAYILVEETIL, PERUMBAVURKARA, PERUMBAVUR VILLAGE.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

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1. MOHAMMED RAFEEK MOIDU, AGED 37 YEARS, S/O.MAMMOOTTY, MIL HOUSE, PERUMBAVURKARA, PERUMBAVUR VILLAGE, ERNAKULAM DISTRICT.

2. PERUMBAVUR MUNICIPALITY, REP. BY ITS SECRETARY, MUNICIPAL OFFICE, PERUMBAVUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/7/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.21701 OF 2007

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Dated this the 13th day of July, 2007

JUDGMENT

This writ petition is filed to set aside the direction given in Exts.P9, P10 and P11 orders calling upon the petitioners to pay cost of Rs.1,000/- each and deposit Rs.1,000/- before the District Legal Services Authority.

2. On a perusal of these orders, I feel that the learned Munsiff has been a little harsh towards the petitioners. He has disposed of 3 applications, viz.,one under Order 6 Rule 17 C.P.C., one under Order XI Rule 2 C.P.C. and the other under Order I Rule 10(2) C.P.C. The Munsiff found that that there is delay in filing those applications. It is a correct finding. But, at the same time it is not necessary to impose such heavy cost separately in each of the applications. The decision requires sympathetic consideration. I feel, the Munsiff should not have awarded cost to the District Legal Services Authority because, already the defendants are in the party array and they are the persons who are concerned with the litigation and usually cost is ordered to be given to the Legal Services Authority when there is nobody on the other side or that person is also equally guilty for the delay. Interest of

justice can be served by imposing a reasonable cost in these cases.

Therefore I modify the order of the Munsiff's Court, Perumbavoor and direct the writ petitioners to pay a consolidated cost of Rs.1,500/- to the first defendant and Rs.1,000/- to the second defendant. The order passed to pay cost to the Legal Services Authority is vacated. The payment ordered above shall be made within 10 days from today.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-